

REMARKS

I. General

Claims 1-10 and 48-50 are pending in the application. All pending claims stand rejected under 35 U.S.C. § 102. Applicant hereby traverses the outstanding rejections and respectfully requests reconsideration and withdrawal in light of the remarks contained herein.

II. Rejections under 35 U.S.C. § 102

Claims 1-10 and 48-50 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,726,297 to Uesugi ("Uesugi"). Applicant traverses these rejections as provided below.

It is well settled that to anticipate a claim, the reference must teach every element of the claim. M.P.E.P. § 2131. Moreover, in order for a prior art reference to be anticipatory under 35 U.S.C. § 102 with respect to a claim, "[t]he elements must be arranged as required by the claim." M.P.E.P. § 2131, citing *In re Bond*, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990). Furthermore, in order for a prior art reference to be anticipatory under 35 U.S.C. § 102 with respect to a claim, "[t]he identical invention must be shown in as complete detail as is contained in the ... claim." M.P.E.P. § 2131, citing *Richardson v. Suzuki Motor Co.*, 9 U.S.P.Q.2d 1913 (Fed. Cir. 1989). Applicant respectfully asserts that the rejections do not satisfy these requirements.

Independent claim 1 recites "allocating at least one coherence cluster to a second subscriber" Uesugi does not disclose at least this element of claim 1. That is, Uesugi does not disclose allocating a coherence cluster. The Office Action points to col. 3, lines 24-63; col. 13, line 50 to col. 14, line 25; and col. 15, line 16 to col. 16, line 13. However, none of these passages even mentions a coherence cluster. Further, Uesugi does not mention a coherence cluster, but rather describes only frequency diversity. Uesugi, col. 1, lines 26-29; col. 3, lines 28-32.

The cited passages of Uesugi merely mention using frequency diversity for transmission and a quasi-coherent detector for reception of the frequency-diverse signal. Specifically, col. 15, lines 63-66, of Uesugi discusses the reception of the frequency-diverse signal shown in Fig. 14 using detector 552 of Fig. 16. See Uesugi, col. 13, lines 50-52 with col. 15, lines 44-47.

Applicant asserts that detecting a frequency-diverse signal with a quasi-coherent detector is not allocating a coherence cluster.

Claim 1 also recites “communication with the first and second subscribers is able to occur by simultaneously using the at least one diversity cluster and the at least one coherence cluster, respectively.” Uesugi does not disclose at least this element of claim 1, either. That is, Uesugi does not disclose simultaneously using at least one diversity cluster and at least one coherence cluster. The Office Action does not even allege that Uesugi simultaneous use of at least one diversity cluster and at least one coherence cluster.

Therefore, Uesugi does not disclose every element of claim 1, does not arrange elements as required by claim 1, and does not contain as complete detail as is in claim 1. Accordingly, Applicant asserts that claim 1 is patentable for, at least, the reason set forth above, and requests withdrawal of the 35 U.S.C. § 102(e) rejection of claim 1.

Claims 2-10 and 48-50 depend from base claim 1, and thus inherit all the limitations of claim 1. Claims 2-10 and 48-50, therefore, set forth features and limitations not disclosed by Uesugi. Applicant asserts that these dependent claims are patentable for, at least, the reason set forth above with respect to claim 1. Accordingly, Applicant requests withdrawal of the 35 U.S.C. § 102(e) rejections of claims 2-10 and 48-50.

III. Conclusion

In view of the above, Applicant believes the pending application is in condition for allowance.

Applicant believes no fee is due with this response. However, if a fee is due, please charge Deposit Account No. 06-2380, under Order No. 68144/P014CP1/10502151 from which the undersigned is authorized to draw.

Dated: 04/24/2006

Respectfully submitted,

By 

R. Ross Viguet

Registration No.: 42,203

FULBRIGHT & JAWORSKI L.L.P.

2200 Ross Avenue, Suite 2800

Dallas, Texas 75201-2784

(214) 855-8185

(214) 855-8200 (Fax)

Attorney for Applicant